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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,660	06/21/2001	Tomiko Erickson	1.792.00	4747

7590 09/30/2002

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/886,660

Applicant(s)  
Erickson

Examiner  
Vanaman

Art Unit  
3618



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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### Specification

1. The abstract of the disclosure is objected to because it is too long. Correction is required. See MPEP § 608.01(b) and 37 CFR 1.72 which set forth the guide lines for the length of a Patent Application Abstract.

2. The disclosure is objected to because of the following informalities: on page 11, line 19, it appears as though "overly" should be --overlie--; on page 13, line 22, "positioned" (last word) should be --position--; on page 17, line 12, it appears as though "corner pads 40 it-self" should be --corner pad 40 itself--.

Appropriate correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

3. The specification is objected to under 37 CFR 1.71 because it fails to provide an adequate written description of the invention. The abstract (lines 9-10 of the abstract page) and specification (see page 5, line 16 through page 6, line 14; page 9, line 18, etc.) refer to the use of

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a hyper-allergenic material, but fails to set forth the particular reasons for the use of a material which is prone to promote excessive (e.g., 'hyper-') allergic reactions.

#### **Claim Objections**

4. Claims 1, 7 and 11 are objected to because of the following informalities: in claim 1, line 9 of the claim, it appears as though a comma (--,--) should be inserted between "overlying" and "at least partially..." (compare to claim 6, lines 3-4 or claim 20, line 9; in claim 7, line 3, it appears as though a comma should be inserted between "overlying" and "covering"; in claim 11, line 4, it appears as though a comma should be inserted between "therein" and "said window". Appropriate correction is required.

#### **Claim Rejections - 35 USC § 112**

5. Claim 3 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 3 recited the use of a hyper allergenic material, however the specification fails to adequately describe the use of such a material.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, lines 2-3, it is not entirely clear whether or not the recitations are a further limitation on the recitation of claim 4.

#### **Claim Rejections - 35 USC § 102**

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 4-8, 13-15, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Guggenheim (US 4,948,154). Guggenheim teaches a cover (10) for a cart (12) forming an interior enclosure, including a top (14) and side wall (16, 18) formed from a protective material, the top overlying a top of the cart (12), the sidewall attached to the top and depending therefrom, the cover leaving an open bottom space to allow the cart to engage the ground, an access opening sized to correspond to the cart side and which allows access to a major portion of the cart side, the opening closed by a closure drape (22, 24), selectively positionable to allow or disallow access, the drape and sidewall including connecting elements (28, 26) allowing the drape to be connected to the sidewall; the cover including portions which may be constructed from a vinyl material, which is mildly hyper allergenic; the top portion, side walls and drape portions including elongated reinforcements (see exemplary illustration, figure 6, which illustrates the reinforcements proximate the closure securement structure) along the periphery of each section, formed by thickened material portions (in this case, folded over and sewn portions), wherein a reinforced perimeter portion extends outwardly from the exterior of the enclosure (see top of cart and enclosure, figure 4).

#### **Claim Rejections - 35 USC § 103**

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guggenheim. Guggenheim teaches a cover for a cart, forming an interior enclosure, including a

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top and side wall formed from a protective material, the top overlying a top of the cart, the sidewall attached to the top and depending therefrom, an access opening sized to correspond to the cart side and which allows access the cart, the opening closed by a closure drape, selectively positionable to allow or disallow access, the drape and sidewall including connecting elements allowing the drape to be connected to the sidewall. The reference of Guggenheim fails to teach the cover as being foldable. Inasmuch as the cover of Guggenheim is taught to be made from a flexible material, it would have been obvious to one of ordinary skill in the art at the time of the invention to allow the cover to be folded, for the purpose of allowing easy storage of the cover when it is not positioned on a cart.

11. Claims 9, 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guggenheim in view of Dismuke (US 5,195,778). The reference of Guggenheim is discussed above and fails to teach at least a first (as regards claims 9 and 20) and second (as regards claim 10) compartments to retain items. Dismuke teaches a flexible covering device which includes a plurality of compartments (8) for accommodating items associated with the use of the covering device. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a plurality of compartments as taught by Dismuke on the cover of Guggenheim for the purpose of allowing various miscellaneous items to be quickly stored and carried. As particularly regards the provision of compartments on the interior of the covering device, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one of the compartments inside the covering device of Guggenheim in order that the contents of that compartment are afforded the benefit clearly taught by Guggenheim of being positioned in a more sterile environment.

12. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guggenheim in view of Dismuke and Haberkorn (US 6,196,287 filed 8/1996). The references of

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Guggenheim and Dismuke are discussed above and fail to teach a further compartment connected to the exterior of the covering device and including a transparent window material. Haberkorn teaches a flexible covering device which includes a transparent windowed compartment (40) for the carrying of data or indicia describing the contents of the item accommodated in the interior of the covering device. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the covering device of Guggenheim as modified by Dismuke with a further transparent compartment for the purpose of allowing a document describing the contents of the cart to be carried with the cart and visible to an operator thereof.

13. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guggenheim in view of Foster (US 5,908,681). The reference of Guggenheim is discussed above and fails to teach the periphery of the top as including pads which protect at least the corners of the top. Foster teaches a flexible cover which includes a top (12) and side (18), wherein the top and side periphery are provided with a pad (24) for protection. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the peripheral protective pad taught by Foster to the top-to-sidewall peripheral junction as taught by Foster for the purpose of preventing injury to a person colliding with the cart under its covering device, as well as protecting any stationary objects which may be in the path of travel of the cart.

### **Conclusion**

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hartwell (US 4,954,384), Franke (US 5,474,185), Trosper et al. (US 5,761,853), Markson (US 5,782,360) teach covering structures of pertinence.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Assistant Commissioner for Patents

Washington, DC 20231

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)

703-872-9327 (Official After Final communications)

703-872-9325 (Customer Service)

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**

F. Vanaman  
September 25, 2002



9/25/02